

**PUBLIC NOTICE**  
**INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION**  
**CITY OF SAN JOSÉ, CALIFORNIA**

***Project File Number, Description, and Location***

**PDC06-094.** Planned Development Rezoning from LI Light Industrial Zoning District to A (PD) Planned Development Zoning District and subsequent permits to allow up to 250 single-family attached residences constructed at-grade and on a podium on a 4.4 gross acre site located at the southwest corner of Cinnabar Street and Stockton Avenue. (Morrison Park Homes LLC, Owner / Morrison Park Homes LLC, Developer) Council District: 6

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 1,000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **April 21, 2008**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **March 28, 2008** and ends at **5:00 PM on April 16, 2008**.

A public hearing on the project described above is tentatively scheduled for **April 21, 2008 at 6:30 pm** in the City of San Jose Council Chambers, 200 East Santa Clara Street, San Jose, CA 95113. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the ROSE GARDEN Branch Library, San José, CA, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp>. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Licinia McMorro** at (408) 535-7814.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

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\_\_\_\_\_  
Deputy

## PUBLIC HEARING NOTICE

The Planning Commission and the City Council of the City of San José will consider a change in **ZONING** at a public hearing in accordance with the San José Municipal Code on:

**Planning Commission Hearing**  
**Wednesday, April 21, 2008**

**6:30 p.m.**

**City Council Chambers**  
**City Hall**  
**200 East Santa Clara Street**  
**San Jose, CA 95113**

**City Council Hearing**  
**Tuesday, May 6, 2008**

**7:00 p.m.**

**City Council Chambers**  
**City Hall**  
**200 East Santa Clara Street**  
**San Jose, CA 95113**

The project being considered is:

**PDC06-094.** Planned Development Rezoning from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 250 single-family attached residences in three-story buildings constructed at-grade and on a podium on a 4.4 gross acre site, located at the southwest corner of Cinnabar Street and Stockton Avenue (345 STOCKTON AV) (381 Stockton Llc, Owner; Morrison Park Homes Llc Bruce Fairty, Developer). **Council District 6. SNI: None. CEQA: Draft Mitigated Negative Declaration.**

Reports, drawings, and documents for this project are available for review during the week of the public hearing from 9:00 a.m. to 5:00 p.m., Monday through Friday at:

Department of Planning, Building and Code Enforcement  
200 East Santa Clara Street  
San José, CA 95113  
(408) 535-7800

<http://www.sanjoseca.gov/planning/hearings/>

You are welcome to attend and to speak on this issue. To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-7800 or (408) 294-9337 (TTY) at least two business days before the meeting. **Muốn biết tin tức bằng tiếng Việt Nam về tờ thông tin này, xin quý vị liên lạc Trung Nguyen ở số (408) 535-7883. Para información en Español acerca de esta solicitud, comuníquese con Juan Borrelli al (408) 535-3555.**

*\* If you choose to challenge this land use decision in court, you may be limited to only those issues you, or someone else, raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing.*

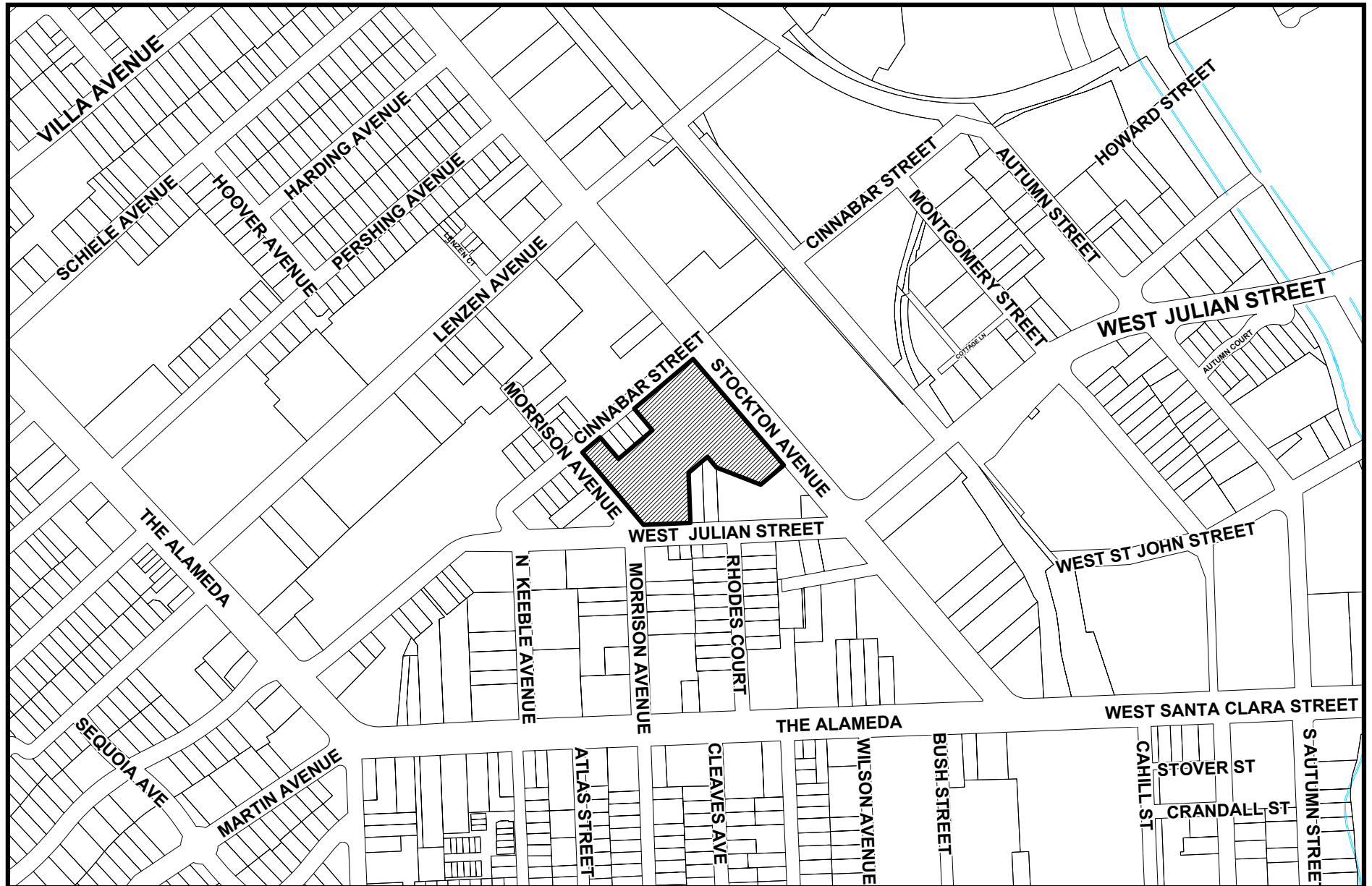
Comments and questions are welcome and should be referred to the **Project Manager, Licinia McMorro**, at 408-535-7814 or the e-mail address: [licinia.mcmorrow@sanjoseca.gov](mailto:licinia.mcmorrow@sanjoseca.gov) in the Department of Planning, Building and Code Enforcement. Please refer to the above file number for further information on this project.



Jean Hamilton, Acting Deputy Director  
Plan Implementation Division  
Dated:



Lee Price, MMC  
City Clerk  
Noticing Radius: 1,000 ft



Scale: 1"= 500'

Map Created On: 08/23/2006

Noticing Radius: 1,000 feet

File No: PDC06-094

District: 6

Quad No: 83

**DRAFT**  
**MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

**NAME OF PROJECT:** Morrison Park Residential Project

**PROJECT FILE NUMBER:** PDC06-094

**PROJECT DESCRIPTION:** Planned Development Rezoning from LI Light Industrial Zoning District to A (PD) Planned Development Zoning District and subsequent permits to allow up to 250 single-family attached residences constructed at-grade and on a podium on a 4.4 gross acre site.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Southwest corner of Cinnabar Street and Stockton Avenue; Assessors Parcel Nos: 261-01-039, 040, 041, 042, 043, 044, 049, 050, 051, 052, 053, 054, 085, and 086

**COUNCIL DISTRICT:** 6

**APPLICANT CONTACT INFORMATION:** Chris Kober, Morrison Park Homes, LLC, 2500 El Camino Real, San Mateo, CA 94403

**FINDING**

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

## **MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL**

**AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**AIR QUALITY** – Proposed construction activities include demolition of the existing buildings, excavation, and grading of the site, which will generate dust and other particulate matter resulting in short-term air quality impacts. The BAAQMD has prepared a list of feasible construction dust control measures that the proposed project can implement to reduce air quality impacts to a less-than-significant level. Because of the proximity of sensitive receptors (i.e., nearby residents) the following dust control measures will be implemented into the project during all phases of construction on the project site:

- Water all active construction areas at least twice daily or as often as need to control dust emissions.
- Cover all trucks hauling soil, sand, gravel and other loose materials (including demolition debris) and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Sweep daily or as often as needed with water sweepers all paved access roads, parking areas and staging areas at construction sites to control dust.
- Sweep public streets daily or as often as needed to keep streets free of visible soil material.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Replant vegetation in disturbed areas as quickly as possible.
- If demolition debris is processed on-site (i.e., ground or crushed), additional dust control measures will be utilized to avoid all visible dust plumes leaving the site.

**BIOLOGICAL RESOURCES** – Construction of the proposed project would result in the removal of nine (9) ordinance sized trees and twenty two (22) non-ordinance sized trees on the project site. The proposed project shall implement the following standard measures to avoid impacts to trees in accordance with City of San José Tree Removal Controls (San José Municipal Code Title 13 Chapter 13.32):

- All trees that are to be removed shall be replaced at the following ratios:

<b>Table 3</b> <b>Tree Replacement Requirements</b>			
<b>Diameter of tree to be Removed</b>	<b>Native</b>	<b>Non-Native</b>	<b>Minimum Size of Each Replacement Tree</b>
18 inches or greater (56.0 Inches Circumference)	5:1 <sup>1</sup>	4:1	24-inch box
12 – 18 inches (37.7 – 56.0 Inches Circumference)	3:1	2:1	24-inch box
Less than 12 inches (Less than 37.7 Inches Circumference)	1:1	1:1	15-gallon container

- It is estimated, based on the site plan, that landscaping proposed by the project will include a sufficient number of trees to offset the loss of trees removed by the project. The species and exact number of trees to be planted on the site and on the street as part of the project will be determined in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement at the development permit stage. In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented to the satisfaction of the Director of Planning, Building, and Code Enforcement, at the development permit stage:
  - The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
  - An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjoining properties for screening purposes to the satisfaction of the Director of Planning, Building, and Code Enforcement.
  - A donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds shall be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.
- The project proponent will prepare the final landscape plan and submit it the Director of Planning, Building and Code Enforcement for approval prior to issuance of a Planned Development permit.

**CULTURAL RESOURCES** – Implementation of the proposed project could result in the destruction of unknown prehistoric and historic subsurface archaeological resources. The project also includes relocation of a California Register eligible structure. The project proposes to implement the following mitigation and avoidance measures:

- a) Site clearing, grading and all other ground disturbing construction activities will be monitored by a qualified archaeologist. If historic/prehistoric artifacts or human remains

<sup>1</sup> X:X = tree replacement to tree loss ratio.

are discovered during ground disturbing activities, the following measures will be implemented:

- In compliance with state law (Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code), in the event human remains are encountered during grading and construction, all work within 25 feet of the find will stop and the Santa Clara County Coroner's office will be notified. If the remains are determined to be Native American, the Coroner would notify the Native American Heritage Commission to identify the "Most Likely Descendant" (MLD). The City, in consultation with the MLD, would then prepare a plan for treatment, study and reinterment of the remains.
- In compliance with state law (Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code), in the event that historical artifacts are found, all work within 50 feet of the find will stop and a qualified archaeologist will examine the find. All significant artifacts and samples recovered during construction would be cataloged and curated by a qualified archaeologist and placed in an appropriate curation facility. The archaeologist must then submit a plan for evaluation of the resource to the City of San José Department of Planning, Building and Code Enforcement for approval. If the evaluation of the resource concludes that the found resource is eligible for the California Register of Historic Resources, a mitigation plan must be submitted to the City of San José Department of Planning, Building and Code Enforcement for approval. The mitigation plan must be completed before earthmoving or construction activities can recommence within the designated resource area.

**b)** The following mitigation measures are proposed to reduce the impact to Building 7 (355 Stockton Avenue) to a less than significant level:

- *Relocation of Building 7 to an Identified Compatible Site:* The Initial Study includes criteria for compatible receiver sites for this structure and identifies several compatible receiver sites meeting the specified criteria. The project developer shall relocate Building 7 to a compatible receiver site that fully meets all the criteria specified in the Appendix. All relocation and rehabilitation activities shall be conducted by the project developer in accordance with the *Secretary of the Interior's Standards for Rehabilitating a Historic Property*. The City will identify triggers in the Planned Development Permit for this project for the timing of receiver site entitlements for relocation, for the relocation activity, and for final occupancy permits for the rehabilitation work.
- *Relocate to an Undetermined Site:* The Initial Study identifies possible available sites at this point in time that appear to meet the specified compatible receiver site criteria set forth in the Appendix. It is recognized that some of these currently available sites may come off the market and become unavailable to the project developer, and that additional sites that meet the compatible receiver site criteria could become available. In that event, the project developer can propose relocation of Building 7 to a site not identified in the Appendix that meets the specified criteria for compatible receiver sites. If the project developer is not able to relocate the Carl Swenson Building pursuant to and in accordance with the mitigation measure described in the preceding paragraph, then the project developer shall relocate the Building to a compatible receiver site that fully meets all of the criteria specified in the Initial Study Appendix pursuant to the provisions of this paragraph. This measure would require additional

evaluation, review, and environmental clearance by the City in the context of the entitlements for the receiver site. All relocation and rehabilitation activities shall be conducted by the project developer in accordance with the *Secretary of Interior's Standards for Rehabilitating a Historic Property*. The City will identify triggers in the Planned Development Permit for this project for the timing of receiver site entitlements for relocation, for the relocation activity, and for final occupancy permits for the rehabilitation work.

- *Retain on Original Site:* In the event the project developer is ultimately unable to gain control of a compatible receiver site, the project shall retain Building 7 at its original location on-site. Demolition of the rest of the buildings could proceed and the project ultimately built with Building 7 in place with a sufficient buffer area providing a setback from new residential development. In this event, the zoning regulations will allow continued industrial or commercial use of Building 7, subject to issuance of a Planned Development Permit. All rehabilitation activities shall be conducted by the project developer in accordance with the *Secretary of Interior's Standards for Rehabilitating a Historic Property*.

c) The City of San José General Plan Policies require Historic Landmarks Commission referral of projects including demolition of structures eligible for the Historic Resources Inventory as Structures of Merit. While demolition of Structures of Merit is not a significant environmental impact, Standard Measures to address the loss of Resources that add to the historic fabric of the City's Inventory are identified below:

- Historic Report and Archival Photo-Documentation: 35mm photography will be required for structures and sites eligible for listing on the City of San Jose Historic Resources Inventory as Structures of Merit. This will consist of selected black and white views of the existing building to the following standards:
  - *Cover sheet*-The documentation shall include a cover sheet identifying the photographer, providing the address of building, common or historic name of the building, date of construction, date of photographs and describing the photographs.
  - *The bound Historic Report for the Structures/Site*
  - *Camera*- A 35mm camera.
  - *Lenses*- No soft focus lenses. Lenses may include normal focus length, wide angle and telephoto.
  - *Filters*-Photographer's choice. Use of a pola screen is encouraged.
  - *Film*-Must use black and white film; tri-X, Plus-X, or T-Max film is recommended.
  - *View*-Perspective view-front and other elevations. All photographs shall be composed to give primary consideration to the architectural and/or engineering features of the structure with aesthetic considerations necessary, but secondary.
  - *Lighting*-Sunlight is usually preferred for exteriors, especially of the front facade. Light overcast days, however, may provide more satisfactory lighting for some structures. A flash may be needed to cast light into porch areas or overhangs.
  - *Technical*-All areas of the photograph must be in sharp focus

Submission of Photo-Documentation: Two copies of the documentation, including the original prints and negatives, shall be submitted to the Historic Preservation Officer for approval and distribution to History San Jose (Attention: Jim Reed, History San Jose, 1650



Senter Road, San Jose, CA 95112-2599, (408) 287-2290), and the Northwest Information Center at Sonoma State University. Digital photos may be provided as a supplement to, but not in place of, the above photo-documentation. Digital photography shall be recorded on a CD and shall be submitted with the above documentation. The above shall be accompanied by a transmittal stating that the documentation is submitted in fulfillment of standard measures for the loss of the historic resource which shall be named and the address stated.

**Professional Qualifications:** The documentation is to be conducted by a qualified consultant meeting the professional qualification standards of the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*.

**Relocation:** Prior to issuance of Public Works clearance, the structure(s) shall be advertised for relocation. The project applicant shall provide evidence that an advertisement has been placed in a newspaper of general circulation, posted on a website, and posted at the site for a period of no less than 30 days.

**Salvage:** Prior to issuance of Public Works Clearance, the structure and site shall be retained and made available for salvage to salvage companies facilitating the reuse of historic building materials.

**GEOLOGY AND SOILS** – The following measures have been included as part of the project to avoid impacts resulting from implementation of the project:

- Geologic conditions on the project site will require that the proposed structures be designed and built in conformance with the requirements of the Uniform Building Code for Seismic Zone 4. The potential for geologic and soils impacts resulting from conditions on the site can be mitigated by utilizing standard engineering and construction techniques. With incorporation of these measures the project will not expose people or property to significant impacts associated with the geologic conditions of the site including seismic ground shaking, liquefaction, or expansive soils.
- The applicant shall submit a soil investigation report addressing the potential hazard of liquefaction to the City Geologist for review and approval prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC" report). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- Implement standard grading and best management practices to prevent substantial erosion and siltation during development of the site.

**HAZARDS AND HAZARDOUS MATERIALS** – Existing soil contamination and groundwater contamination on-site could pose a threat to human health for future residents and construction workers. The project proposes to implement the following mitigation measures:

- A soil management plan (SMP) will be prepared to address the handling of impacted soils during project development. In addition, a health and safety plan (HSP) will be prepared

addressing worker safety, including the rationale for selection of personal protective equipment (PPE) for site workers during site development and during any post-development construction activities (such as underground utility repairs, where workers might expose contaminated materials). The HSP will also include a discussion of health risks associated with the contaminants identified at the site. Furthermore, a Sampling and Analysis plan will be prepared with provisions for collecting post-demolition soil samples in previously inaccessible areas to confirm the extent of soil contamination under the pre-existing buildings. The SMP, HSP, and Sampling and Analysis Plan will be prepared and submitted to the City of San José, Municipal Compliance Officer for approval prior to issuance of grading permits.

- Soils removed from excavation of underground utility trenches, proposed semi-submerged garages, and preparation of foundations will be appropriately characterized and transported off-site for disposal at an appropriately permitted waste disposal facility.
- Well records at the SCVWD will be reviewed to evaluate the locations of any active wells. Active wells will be destroyed or relocated as needed prior to issuance of grading permits.
- The applicant will have a Remedial Action Work Plan (RAWP) prepared by a qualified hazardous materials consultant prior to issuance of grading permits that will detail the remediation work left to be done on-site and the timing of the work. The RAWP will be submitted to the RWQCB for approval.
- Upon approval of the RAWP by the RWQCB, the RAWP will be submitted to the City of San José Planning Department for review and approval.
- After the RAWP has been fully implemented, appropriate documentation will be submitted to the RWQCB for issuance of a No Further Action letter. A copy of the No Further Action letter must be filed with the City of San José Planning Division.

The presence of an underground tank (UST) on the project site, including under the sidewalk which has not been closed or is not currently in the process of remediation could significantly impact soil and/or groundwater on the project site. The project proposes to implement the following mitigation measures:

- The UST will be removed in accordance with current regulations. Once the UST is removed, soil and groundwater sampling will be completed by qualified personnel to determine if soil and/or groundwater contamination has occurred.
- If soil and/or groundwater contamination is found in this location, mitigation measures listed above will be implemented as necessary to remediate contamination issues associated with the UST.

The project proposes to conform with the following regulatory programs and to implement the following standard measures to reduce impacts due to the presence of asbestos containing materials (ACM) and/or lead-based paint:

- In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site buildings to determine the presence of asbestos-containing materials and/or lead-based paint.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- All potentially friable ACMs shall be removed in accordance with NESGAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from exposure to asbestos.
- A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one (1) percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one (1) percent asbestos shall be completed in accordance with BAAQMD requirements.

**HYDROLOGY AND WATER QUALITY** – The following mitigation measures, based on Regional Water Quality Control Board (RWQCB) Best Management Practices, are included in the proposed project to ensure compliance with NPDES permit requirements to reduce construction-related water quality impacts:

- During construction, burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains.
- During construction, earthmoving or other dust-producing activities will be suspended during periods of high winds.
- During construction, all exposed or disturbed soil surfaces will be watered at least twice daily to control dust as necessary.
- During construction, stockpiles of soil or other materials that can be blown by the wind will be watered or covered.
- During construction, all trucks hauling soil, sand, and other loose materials will be covered and/or all trucks will be required to maintain at least two feet of freeboard.
- During construction, all paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites will be swept daily (with water sweepers).

- During construction, vegetation in disturbed areas will be replanted as quickly as possible.
- Prior to construction grading for the proposed land uses, the applicant will file a “Notice of Intent” (NOI) to comply with the General Permit administered by the Regional Board and will prepare a Stormwater Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the amendment to minimize and control construction and post-construction runoff. The following measures would be included in the SWPPP:
  - Preclude non-stormwater discharges to the stormwater system.
  - Effective, site-specific Best Management Practices for erosion and sediment control during the construction and post-construction periods.
  - Coverage of soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.
  - Perform monitoring of discharges to the stormwater system.
- The developer will submit a copy of the draft SWPPP to the City of San José Public Work’s Department for review and approval prior to construction of the project site. The certified SWPPP will be posted at the site and will be updated to reflect current site conditions.

The following standard measures, based on RWQCB Best Management Practices and City of San José requirements, are included in the proposed project to ensure compliance with NPDES permit requirements to reduce post-construction water quality impacts:

- When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the RWQCB and the City of San José. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the project site.
- All post-construction treatment control measures (TCM) will be installed, operated, and maintained by qualified personnel. On-site inlets will be stenciled in conformance with City requirements and cleaned out a minimum of once per year, prior to the wet season.
- The property owner/site manager will keep a maintenance and inspection schedule and record to ensure that the TCMs continue to operate effectively for the life of the project. Copies of the schedule and record must be provided to the City upon request and must be made available for inspection on-site at all times.

**LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**NOISE** – The following measures are included in the project to reduce significant long-term noise impacts:

- Project-specific acoustical analyses are required so that the design of the residential unit will be sufficient to adequately reduce interior noise levels to 45 dBA DNL or lower. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for all new units with direct line to significant transportation noise sources in the project vicinity, so that windows could be kept closed at the occupant's discretion to control noise.
- Special building sound insulation treatments may be required. These treatments would include, but are not limited to, sound rated windows and doors (STC28-30), sound rated wall constructions, acoustical caulking, protected ventilation openings, etc. The specific determination of what treatments are necessary would be determined on a unit-by-unit basis. The results of the analysis, conducted during the design phase of the project, including the description of the necessary noise control treatments to achieve acceptable noise levels inside the living units, shall be submitted to the City along with the building plans and approved prior to issuance of a Building permit.

The project shall implement the following standard measures:

- Noise-generating activities at the construction site or in areas adjacent to the construction site associated with the project in any way should be restricted to the hours of 7:00 AM and 7:00 PM, Monday through Friday, and 8:00 AM to 5:00 PM on Saturdays. No construction activities should occur Sundays or holidays.
- Equip all internal combustion engine driven equipment with intake and exhaust mufflers which are in good condition and appropriate for the equipment.
- Locate stationary noise generating equipment as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance.
- Designate a “disturbance coordinator” who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

**POPULATION AND HOUSING** – The project will not have a significant impact on this

resource, therefore no mitigation is required.

**PUBLIC SERVICES** – The project shall implement the following standard measure:

- In accordance with California Government Code Section 65996, the developer will pay a school impact fee to offset increased demands on school facilities caused by the proposed project.
- The project will conform to the City's Park Impact Ordinance (PIO) and Parkland Ordinance (PDO) (Municipal Code Chapter 19.38).

**RECREATION** – The project shall implement the following standard measure:

- The proposed project will be subject to the City's Parkland Dedication Ordinance (PDO) and Park Impact Ordinance (PIO). The City of San José has adopted the PDO (Chapter 19.38) and PIO requiring residential developers to dedicate parkland or pay in-lieu fees, or both, to offset the demand for neighborhood parkland created by their housing developments. Each new residential project is required to conform to the PDO and PIO. The acreage of parkland required is based on the Acreage Dedication Formula outlined in the Parkland Dedication Ordinance<sup>2</sup>. The proposed project will conform to the PDO/PIO by paying the required in-lieu fees<sup>3</sup> (no parkland dedication is proposed)

**TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on traffic, therefore no mitigation is required.

**UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on utilities and services, therefore no mitigation is required.

**MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

## **PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **April 16, 2008**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised

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<sup>2</sup> Minimum Acreage Dedication = (0.003 acres) x (number of dwelling units) x (average persons per household).

<sup>3</sup> The City of San José will use the in-lieu fees from this development project to acquire parkland or improve existing parkland in the project area.

during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Circulated on: \_\_\_\_\_

\_\_\_\_\_  
Deputy

Adopted on: \_\_\_\_\_

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